

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

EDMUNDO A. ZUNIGA,

Plaintiff,

vs.

ATTORNEY GENERAL, *et al.*,

Defendants.

2:13-cv-01138-JCM-VCF

**ORDER**

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. Petitioner has paid the filing fee for this action. (Doc. No. 3).

Petitioner has filed a motion for the appointment of counsel. (Doc. No. 4). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The petition

1 on file in this action is well-written and sufficiently clear in presenting the issues that petitioner  
2 wishes to bring. The issues in this case are not complex. It does not appear that counsel is justified  
3 in this instance. The motion for appointment of counsel is denied.

4 The petition shall now be filed and served on respondents. A petition for federal habeas  
5 corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include  
6 such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that  
7 claim. *See* 28 U.S.C. §2254(b) (successive petitions).

8 **IT IS THEREFORE ORDERED** that the clerk shall **FILE and ELECTRONICALLY**  
9 **SERVE** the petition (Doc. No. 1-1) upon the respondents.

10 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of  
11 this order within which to answer, or otherwise respond to, the petition. In their answer or other  
12 response, respondents shall address all claims presented in the petition. Respondents shall raise all  
13 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and  
14 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,  
15 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the  
16 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have  
17 **forty-five (45) days** from the date of service of the answer to file a reply.


18 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall  
19 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy  
20 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**  
21 division of the clerk of court.

22 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (Doc.  
23 No. 4) is **DENIED**.

24 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the attorney  
25 general of the state of Nevada a copy of every pleading, motion, or other document he submits for  
26 consideration by the court. Petitioner shall include with the original paper submitted for filing a

1 certificate stating the date that a true and correct copy of the document was mailed to the attorney  
2 general. The court may disregard any paper that does not include a certificate of service. After  
3 respondents appear in this action, petitioner shall make such service upon the particular deputy  
4 attorney general assigned to the case.

5 Dated this 28th day of August, 2013.

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8 UNITED STATES DISTRICT JUDGE  
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